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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

**FILED**

INNOVATION VENTURES, LLC  
d/b/a LIVING ESSENTIALS.,  
a Michigan corporation,



**MAR 24 2004**  
**CLERK'S OFFICE**  
**U. S. DISTRICT COURT**  
**EASTERN MICHIGAN**

Plaintiff,

v.

Case No. 03-71666  
Hon. John Corbett O'Meara  
JURY TRIAL DEMANDED

NATURES ONLY, INC.  
a California corporation,  
CPB INTERNATIONAL, INC.  
a Pennsylvania corporation  
PHARMED MEDICARE,  
a New York corporation,

Defendants.

J. Michael Huget (P39150)  
Laurie J. Michelson (P47214)  
Michael Turco (P48705)  
BUTZEL LONG  
150 W. Jefferson, Suite 900  
Detroit, MI 48226  
313-225-7000

Douglas W. Sprinkle (P25326)  
GIFFORD, KRASS, GROH, SPRINKLE,  
ANDERSON & CITKOWSKI, P.C.  
280 N. Old Woodward Ave., Suite 400  
Birmingham, MI 48009-5394  
248-647-6000

*Attorneys for Plaintiff*

*Attorneys for Defendant Natures Only, Inc.*

**CONSENT JUDGMENT**

This matter having come before the Court on the Complaint filed by Plaintiff INNOVATION VENTURES, LLC d/b/a LIVING ESSENTIALS ("Living Essentials") for violations of the Lanham Act, 15 U.S.C. §§ 1051 *et seq.*, as well as the common law of the State of Michigan against Defendants, NATURES ONLY, INC. ("Natures

Only”), CPB INTERNATIONAL, INC. (“CPB”) and PHARMED MEDICARE (“Pharmed”), the Court finds as follows:

1. The Court has jurisdiction over the parties and over the subject matter at issue.

2. Since April 2001, Living Essentials has manufactured, marketed and sold a dietary supplement caplet for the prevention of hangovers under the CHASER trademark. The product is sold primarily in 40-count bottles and 4-count traveler packs. The latter trade dress consists of a rounded, die-cut, fold-over card with a manually inserted blister that contains and exposes the 4 caplets in see-through openings. The background color of the entire packaging is red with the CHASER trademark in yellow across the top. In the upper-left corner is a diagonal slant with a yellow background that contains the word “New” in red letters. This product trade dress also lists attributes of the caplets in white lettering, including “Freedom from Hangovers” and “helps prevent hangovers by absorbing elements in beer, wine and liquor that cause hangovers.” Above the openings that expose the caplets is a yellow bar that runs across the length of the package with the explanation, in red letters, “Two capsules work for up to 6 drinks.” On the back of the product package is a “hang tag” so that it can hang from a display in a store. The CHASER product trade dress is attached hereto at Exhibit A. The Court finds that this is a unique and distinctive trade dress.

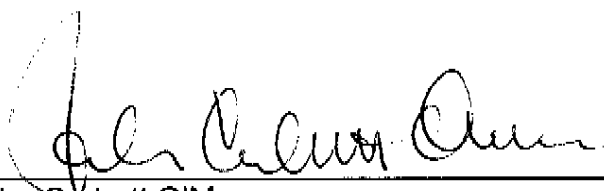
3. Subsequent to the launch of the CHASER product, Defendants began to promote a competing product under the CHEERS mark in packaging attached at Exhibit B.

4. In order to avoid further litigation, Defendants have agreed to cease all use of the packaging (Exhibit B) and immediately change it to the packaging shown in Exhibit C.

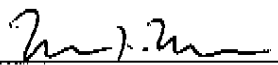
5. Accordingly, upon entry of this Consent Judgment, Defendants and their agents, servants, employees, and attorneys, and all persons in active concert or participation with it who receive notice hereof, are hereby permanently enjoined from using the trade dress attached at Exhibit B and any other trade dress that is likely to cause confusion with Living Essentials' trade dress (attached at Exhibit A). Plaintiff and its successors, affiliates and assignees, agree not to assert any future claim for copyright, trademark and/or trade-dress infringement for the packaging shown in Exhibit C. This limitation only applies to the packaging shown in Exhibit C.

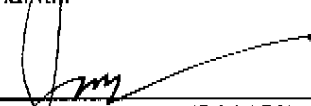
6. In view of the foregoing, no accounting is ordered and no damages are awarded to Plaintiff. In addition, each party hereto shall bear its own costs and attorney fees and no costs or attorney fees are awarded to any party.

This Court retains jurisdiction over this matter for purposes of enforcing this Consent Judgment.

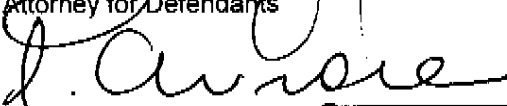
  
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John Corbett O'Meara  
U.S. District Court Judge

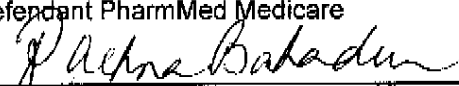
Dated:           **MAR 24 2004**           2004

  
\_\_\_\_\_  
Tom Morse, President  
Plaintiff

  
\_\_\_\_\_  
J. Michael Huget (P39150)  
Attorney for Plaintiff

  
\_\_\_\_\_  
Douglas W. Sprinkle (P25326)  
Attorney for Defendants

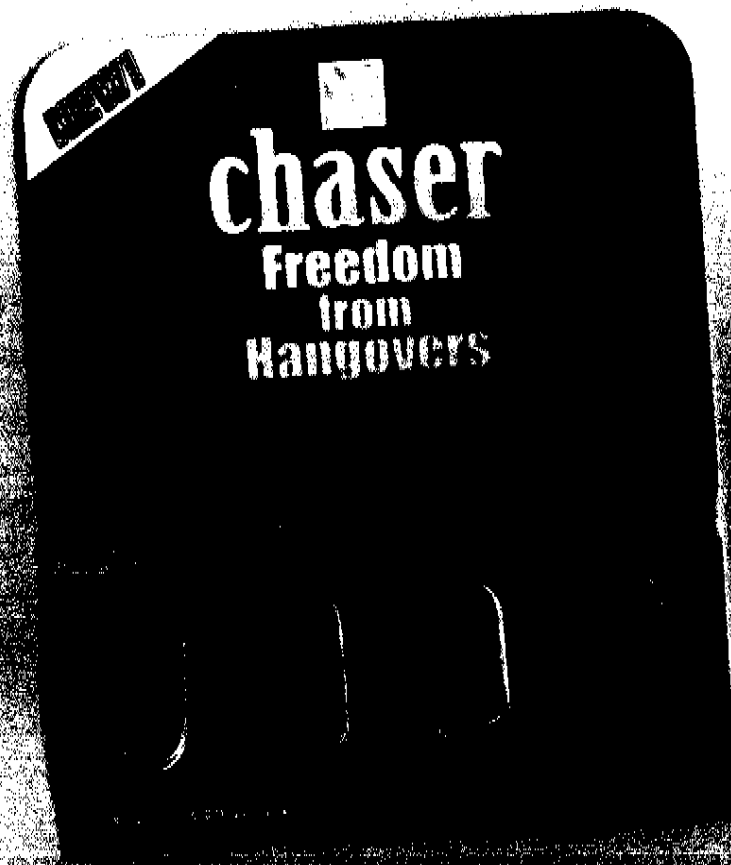
  
\_\_\_\_\_  
Sundeep Aurora, ~~Officer~~ President  
Defendant PharmMed Medicare

  
\_\_\_\_\_  
[insert] RACHNA BAHADUR  
Natures Only DIRECTOR

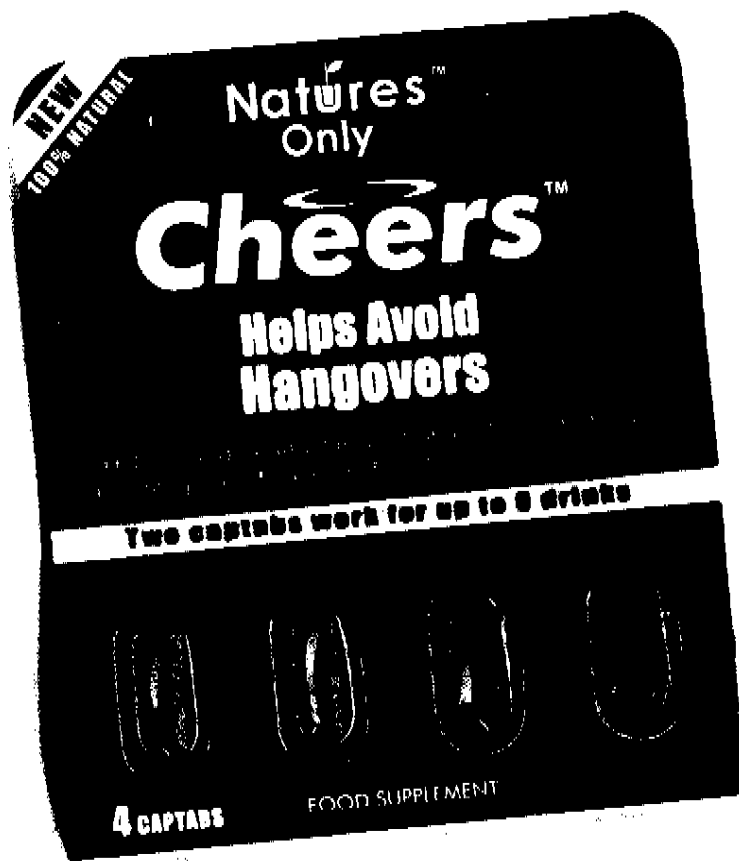
  
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[insert]  
Defendant CPB International, Inc.

10 february 2004

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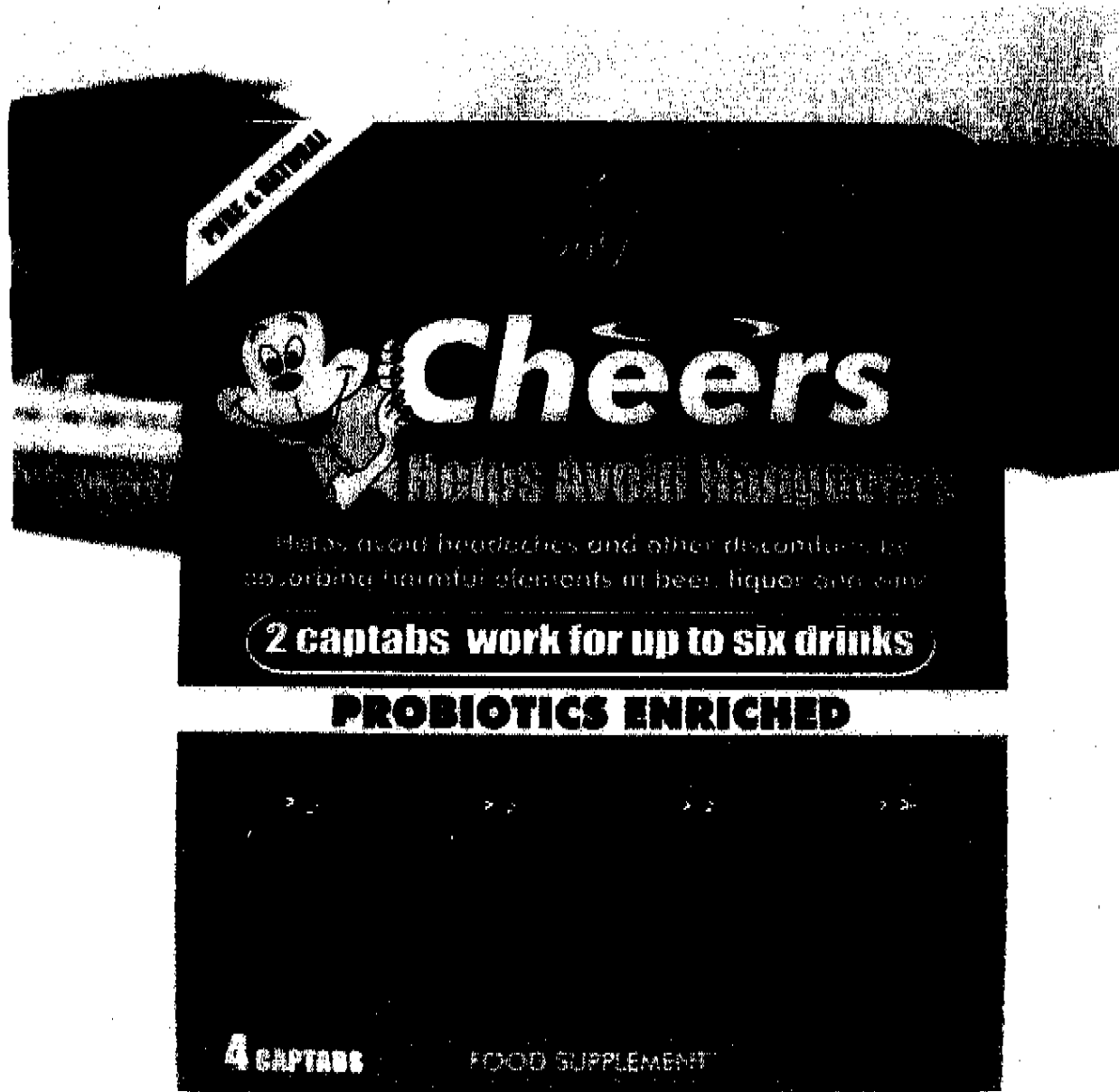


B





C



**FREE CAPTAB**

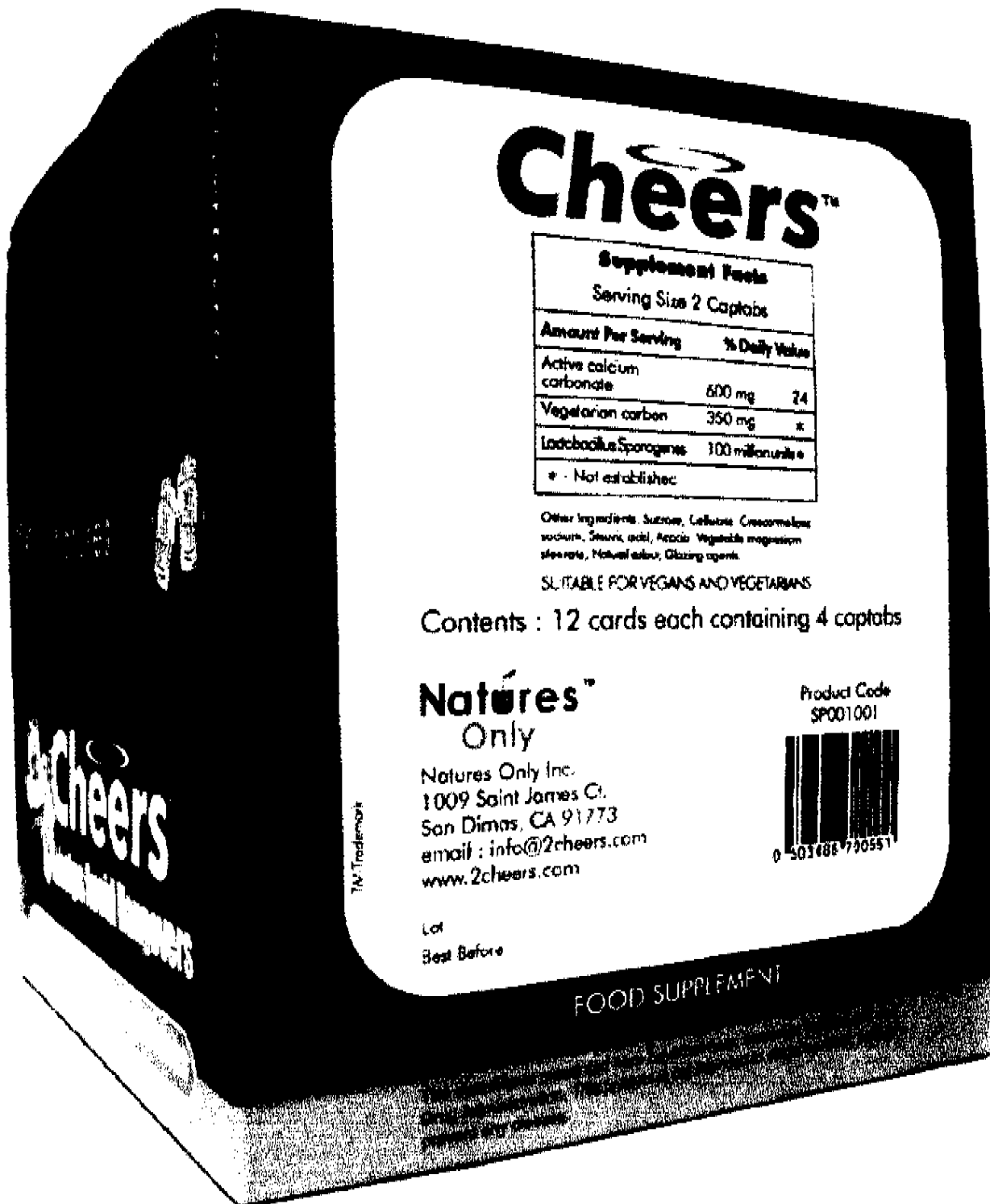
**Chēers**

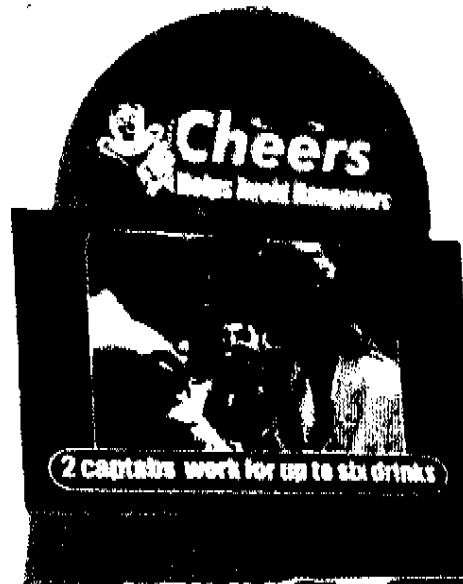
**PROBIOTICS ENRICHED**

Helps avoid headaches and other discomforts by absorbing harmful elements in beer, liquor and wine

**2 captabs work for up to six drinks**

**4 CAPTABS** FOOD SUPPLEMENT





#### Directions (per packet):

- Two captabs with your first drink
- For best results, take two more captabs every two hours or after five drinks
- To avoid dehydration from alcohol, drink plenty of water

#### Warnings:

- Please drink responsibly
- Not for use by minors
- Cheers will not prevent intoxication
- Never drink and drive
- Do not drink if you are pregnant or nursing
- Cheers does not treat or prevent consequences of excess alcohol consumption

#### Caution:

Do not use more than 6 captabs in 24 hours period, for more than two weeks except under the supervision of your health physician



STORE IN A COOL DRY PLACE

#### Supplement Facts

Serving Size 2 Captabs

Amount Per Serving	% Daily Value
Active carbon	640 mg 24
Carbonate	
Vegetarian carbon	350 mg
Lockdownal Spices 100% natural	
* Not established	

Other Ingredients: Sucrose, Cellulose, Citric Acid, Natural Flavors, Stevia Leaf Extract, Vegetable Magnesium Stearate, Natural Color, Glycerin, etc.

THIS PRODUCT IS NOT A DRUG. IT DOES NOT TREAT OR PREVENT THE CONSEQUENCES OF EXCESS ALCOHOL CONSUMPTION. IT IS NOT A SUBSTITUTE FOR WATER OR OTHER BEVERAGES.

#### Nature's Only

100% Natural  
100% Vegetarian  
100% Natural  
100% Natural  
100% Natural

100% Natural

100% Natural

